

DIRECTIVE

JOB TRAINING PARTNERSHIP ACT

Number: D98-1

Date: July 8, 1998
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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: AUDIT RESOLUTION

EXECUTIVE SUMMARY:

Purpose:

This Directive transmits the policy and procedures for the resolution of audit findings and disallowed costs.

Scope:

This Directive applies to all Job Training Partnership Act (JTPA) subrecipients.

Effective Date:

This Directive is effective immediately.

REFERENCES

- JTPA Sections 104(b)(12) and 164(e)(2)
- Title 20 Code of Federal Regulations (CFR) Sections, 627.480, 627.481(c), 627.606, and 627.704
- Office of Management and Budget (OMB) Circular A-133, June 24, 1997
- Department of Labor (DOL) Technical Assistance and Training (TAG) Series for JTPA Financial Management, 1995

STATE-IMPOSED REQUIREMENTS:

This Directive contains some state-imposed requirements. These requirements are indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

This Directive supersedes Job Training Partnership Office (JTPO) Bulletin Number 84-13, dated July 13, 1984. Retain this Directive until further notice.

BACKGROUND:

The subrecipients of JTPA funds are required to meet the audit requirements of OMB Circular A-133. Audit findings must be resolved by the awarding entity. The State is required to establish audit resolution procedures. The procedures apply to

state resolution of Service Delivery Area (SDA) audits and any other direct subrecipient audits and to subrecipient resolution of lower tier subrecipient audits. The Compliance Review Division (CRD) is responsible for state-level audit resolution and coordination of state-level hearings. Mail should be addressed to:

Employment Development Department
Compliance Review Division, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

POLICY AND PROCEDURES:

Definitions:

Auditee, as defined in OMB Circular A-133, is any nonfederal entity that expends federal awards that must be audited under the circular.

The DOL Financial Management TAG provides the following definitions:

Awarding agency means (1) with respect to a grant, DOL; and (2) with respect to a subgrant or contract, the party that awarded the subgrant or contract.

Initial Determination is a preliminary decision on whether to allow or disallow questioned costs and resolve any nonmonetary findings.

Final Determination is the awarding agency's final decision to disallow the cost and the status of nonmonetary findings.

Nonmonetary finding is an administrative finding.

Subrecipient, in this Directive, refers to SDAs and lower-tier subrecipients.

Policy:

The SDAs and other subrecipients that award JTPA funds to lower tier subrecipients must have written audit resolution policies and procedures. ***For SDAs, audit resolution consists of a three-part process that includes the Initial Determination, an informal resolution period, and the Final Determination. Receipt of the initial and final determinations by the auditee must be documented by the awarding agency.***

Procedures:

I. Subrecipient Standards

A. Subrecipients must:

1. Review the audit report of their subrecipients to ensure compliance with the requirements of OMB Circular A-133.
2. ***Establish an audit resolution file to document the disposition of reported questioned costs and corrective actions taken for all findings.***

3. **Complete a control log.** (The log must contain the date of the audit, the period covered by the audit, the date that the audit was received, the auditor, the questioned costs, the administrative findings, the date or dates of the Initial and Final Determinations, and documentation of decisions regarding the disallowed costs and administrative findings.)
 4. Issue a letter of initial determination based on the audit review. The initial determination letter includes:
 - A list of all questioned costs;
 - Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions;
 - Acceptance or rejection of any corrective action taken to date, including corrective action on administrative findings;
 - Possible sanctions; and
 - The opportunity for informal resolution of no more than 60 days from the date of initial determination.
 5. During informal resolution, the auditee may provide documentation to support allowability of costs and proposed corrective action of administrative findings. Informal resolution discussions may be held by telephone, if necessary, but in person is preferable. When a meeting is held, provide a sign-in sheet. ***The sign-in sheet must be retained as part of the audit file. The meeting must be documented either with a voice recording or written notes.*** Negotiation of repayments can be initiated at this time.
 6. Issue a written final determination. The final determination includes:
 - Reference to the initial determination;
 - Summation of the informal resolution meeting, if held;
 - Decisions regarding the disallowed costs, listing each disallowed cost and noting the reasons for each disallowance;
 - Questioned costs that have been allowed by the awarding agency and the basis for the allowance;
 - Demand for repayment of the disallowed costs;
 - Description of the debt collection process and other sanctions that may be imposed if payment is not received;
 - Rights to a hearing; and
 - The status of each administrative finding.
- B. The audit resolution process must be completed within six months after receipt of the subrecipient's audit report and must ensure that the subrecipient takes appropriate and timely corrective action.

C. ***The audit file must be assembled for ease of reference in the event of future action. The file must be tabulated with the most current documentation first. The file should include the following:***

- Final determination and proof of receipt by the subrecipient;
- Additional documentation submitted as part of the informal resolution process:
 - Notes related to the informal resolution;
 - Sign-in sheets for any informal resolution meetings;
- Initial determination and proof of receipt by the subrecipient;
- Response to the final audit report; and
- Final audit report.

D. ***Subrecipients must establish local-level hearing procedures. The awarding agency must reserve the right to overturn a hearing officer's decision where it determines that noncompliance with the act or Regulations still exists.***

The hearing allows both parties the right to present either written or oral testimony, call and question witnesses in support of their position, present oral and written arguments, examine records and documents relevant to the issues, and be represented. ***The hearing shall be recorded mechanically or by court reporter.***

The auditee has 21 calendar days after the final determination is issued to submit a written request for a hearing. At least ten calendar days before the hearing, written notice of the date and site of the hearing must be provided to the auditee. The ten-day notice may be shortened with the written consent of both parties. The auditee may withdraw the hearing request; ***the withdrawal request must be submitted in writing.***

A decision must be issued by the hearing officer within 60 days of the request filing date.

E. ***If the auditee appeals the decision of the awarding agency's hearing officer to the state, the awarding agency will send CRD the case file and CRD will review the case.*** The State will provide a determination based on the evidence without consideration of any imposed sanctions.

F. ***The awarding agency shall ensure correction of any unresolved administrative findings.*** The awarding agency should determine the status of the unresolved administrative findings through its monitoring process and determine that appropriate corrective action has been taken. ***A copy of the monitoring report substantiating the implementation of the appropriate corrective action must be filed with the audit report.***

II. Standards for State Audit Resolution

- A. If there are no audit findings, CRD will notify the auditee that no further action will be taken regarding the audit.
- B. If the audit identifies an administrative finding, questioned cost or cost recommended for disallowance, CRD will:
 - 1. Establish an audit resolution file to document the disposition and corrective action taken to resolve each finding,
 - 2. Issue a written notice of initial determination after the audit is reviewed,
 - 3. Provide the auditee an opportunity for informal resolution and submission of additional documents within 60 days from the date of the notice of initial determination, and
 - 4. Issue a written notice of final determination.

III. State Hearings

All requests for hearing, including amendments and withdrawals, shall be in writing. Requests for hearing must be made within 15 days from the date of the final determination or the decision of the local level hearing officer.

The state hearing officer will provide written notice to the concerned parties of the date, time, and place of the hearing at least ten calendar days before the scheduled hearing. Both parties will have the opportunity to: present oral and written testimony; call and question witnesses in support of their position; present oral and written arguments; examine records and documents relevant to the issue(s); and be represented. The state hearing officer will prepare a proposed decision and submit it to the EDD Director or designee. The EDD reserves the right to overturn the decision of the hearing officer.

There is no administrative appeal beyond this level.

IV. Stand-in Costs

During the audit resolution process, an auditee may propose the use of stand-in costs to substitute for the disallowed costs. To be considered, stand-in costs must be incurred for allowable JTPA costs that were reported as uncharged JTPA program costs, included within the scope of the audit, and accounted for in the auditee's financial system. The stand-in cost must have been expended in support of the same title and program year as the costs they propose to replace, and the costs must not cause a violation of the cost limitations. Stand-in costs must be actual expenses paid with nonfederal funds.

After 1992, any requests for stand-in costs must be submitted before the end of the informal resolution period. The proposed stand-in costs must have been reported on the JTPA Summary of Expenditures and must have been included within the scope of the audit.

Stand-in may not be considered as a substitute for disallowed costs for which non-federal cash repayment is required pursuant to JTPA Section 164(e)(1).

ACTION:

Bring this Directive to the attention of all affected staff and subrecipients.

INQUIRIES:

Please direct inquiries about this Directive to your program manager or Jean Cole, Policy Unit Analyst, at (916) 654-8284.

/S/ BILL BURKE

Assistant Deputy Director